

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

CHARLENE D. RICE

PLAINTIFF

V.

CAUSE NO.: 1:15CV182-SA-DAS

JOSE J. TOHAN, and
A & S TRANSPORTATION, INC.

DEFENDANTS

ORDER

Plaintiff originally filed this case in the Lee County Circuit Court on June 3, 2015. Summonses were issued at that time to all Defendants [3-4]. Prior to removal, the Circuit Court judge granted Plaintiff's request for an extension of time to serve both Defendants and allowed an "additional 120 days from October 1, 2015 to serve the Defendants." [3-9]. That 120 day extension expired January 29, 2016. The Clerk issued a Notice [8] that the Defendant Jose J. Tohan had not been served as required by the Federal Rules of Civil Procedure on December 7, 2015. A second notice was sent [9] alerting Plaintiff that Jose J. Tohan had not been served by January 7, 2015. A third Clerk's Notice of Incomplete Process was entered on February 9, 2016 [10]. Since that time, the magistrate judge has held a case management conference, set deadlines for the case, and noticed the trial date. Plaintiff has still not filed notice that the summonses were executed as to Jose J. Tohan.

Accordingly, pursuant to Federal Rule of Civil Procedure 4(m), the court, on its own motion, hereby dismisses the Defendant Jose J. Tohan without prejudice due to incomplete service of process by Plaintiff.

SO ORDERED, this the 18th day of May, 2016.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE